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Letter dated 6 March 2007 from the Secretary-General to the President of the General Assembly

I have the honour to transmit herewith a request from the Registrar of the International Criminal Court by which the Court invites the General Assembly to consider amending the pension scheme regulations for the judges of the International Court of Justice, the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda in order to ensure that no former judge of any of these courts or tribunals receives a United Nations pension while serving as a judge of the International Criminal Court (see annex).

I would be grateful if the present letter and its annex could be brought to the attention of the members of the General Assembly for consideration under agenda item 117.

(*Signed*) **Ban** Ki-moon

07-26384 (E) 090307

Annex

Letter dated 28 February 2007 from the Registrar of the International Criminal Court to the Secretary-General

Amendments to the pension scheme regulations of judges of United Nations courts

On behalf of the International Criminal Court (ICC), I have the honour to seek your assistance in bringing the above issue to the attention of the General Assembly through appropriate channels. The background to this request is as follows:

In annex VI to the budget for the first financial period (ICC-ASP/1/3, part III), the Assembly of States Parties (ASP) decided that judges of ICC shall be entitled to pension benefits similar to those applicable to the members of the International Court of Justice. You may recall that following various reviews of the pension scheme regulations for members of the International Court of Justice, the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda, the General Assembly decided to bar former judges of these courts from receiving payment of a retirement benefit to which they would otherwise be entitled under the applicable pension scheme regulations during their period of service as judges in any of the institutions (resolution 57/289). In this regard article 1 (7) of the pension scheme regulations for members of the International Court of Justice provides:

> No retirement pension shall be payable to a former member who has been elected or appointed a permanent judge of the International Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda or who has been appointed to serve in the International Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda as an ad litem judge until he or she ceases to hold that office or appointment.

Similar wording is found in article 1 (5) of the pension scheme regulations of the judges of the International Tribunals for the former Yugoslavia and Rwanda. Currently the bar does not extend to ICC judges.

During its fifth session, held in The Hague from 23 November to 1 December 2006, ASP considered the issue of precluding former ICC judges from receiving a retirement pension while serving with any of the United Nations courts. In paragraph 27 of its resolution ASP/5/Res.3 dated 1 December 2006, ASP decided to immediately preclude the possibility of former ICC judges receiving a retirement pension from ICC while serving as permanent judges of the International Court of Justice or as judges or ad litem judges of either International Tribunal. The pension scheme regulations of the ICC judges are thus being amended to read as follows:

> No retirement pension shall be payable to a former judge who has been elected a member of the International Court of Justice or who has been elected or appointed a permanent judge of the International Criminal Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda or who has been appointed to serve in the International Criminal Tribunal for the Former Yugoslavia or the International Criminal Tribunal for Rwanda as an ad litem judge until he or she ceases to hold that office or appointment.

In paragraph 28 of ASP/5/Res.3, ASP also requests ICC to invite the General Assembly to consider amending the pension scheme regulations for the judges of the International Court of Justice, the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda in order to ensure that no former judge of any of these courts receives a pension while also serving as a judge of the International Criminal Court. I hope you can assist the ICC with channelling this issue through appropriate United Nations committees for it to be brought to the attention of the General Assembly for appropriate action.

You may wish to recall that in document A/C.5/57/36 (para. 13), the Secretary-General sought to bring the issue of judges of the International Criminal Court to the attention of the General Assembly in view of the election of former judges of the International Tribunals for the former Yugoslavia and Rwanda as judges of the International Criminal Court. In his report, the Secretary-General noted that nothing barred former judges of the International Court of Justice and of the Tribunals from continuing to receive their pensions while engaged by the International Criminal Court. He urged the General Assembly to consider whether it would be appropriate to introduce any such bar and if so, the circumstances in which it would apply. The General Assembly does not seem to have taken action on the matter.

Your assistance with facilitating consideration of this issue by the General Assembly would be highly appreciated.

(*Signed*) Bruno **Cathala**